

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Wabash County

Petition #: 85-009-95-1-4-00007R
Petitioner: Meadowbrook North Apartments (Phase I)
Respondent: Brenda Conner, Assessor of Noble Township, Wabash County
Parcel #: 13276103200007
Assessment Year: 1995

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The subject property is located at 1289 Meadowbrook Lane, Wabash, in Noble Township. As of the March 1, 1995, assessment date, the Noble Township assessor (Assessor) determined the assessed value of the subject property to be \$62,130 for the land and \$611,100 for the improvements.
2. Pursuant to Ind. Code § 6-1.1-15-3, Real Estate Tax Consultants, Inc., on behalf of Meadowbrook North I (the Petitioner) filed a Form 131 Petition on May 24, 1996, requesting a review by the State Board. In its Form 131, the Petitioner alleged, *inter alia*, that the apartment complex at issue in its appeal suffered from obsolescence as a result of rent restrictions imposed by the United States Department of Housing and Urban Development (HUD). According to the Petitioner, the property's obsolescence was due to the subject property's participation in the HUD's 236 Program which provides mortgage interest subsidies for below-market housing for low-income individuals.
3. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on October 13, 2000, in Wabash, Indiana before Hearing Officer Patti Kindler. Testimony and exhibits were received into evidence. Vickie L. Norman of Baker & Daniels and Brian K. Poore of Real Estate Tax Consultants, Inc., represented the Petitioner. Ms. Kelly Schenkel represented the Wabash County Assessor's Office and Ms. Brenda D. Conner represented Noble Township.
4. On February 8, 2002, the Board issued its final determination denying the Petitioner's request for relief on the issue of obsolescence.¹ The Petitioner subsequently filed a Request for Rehearing, which was denied by the Board.

¹ The Petitioner was awarded relief on other issues, however, such as a lowering of the grade of the improvements on the subject property from a "C" grade to a "C-1" grade.

5. On March 21, 2002, the Petitioner filed an appeal with the Indiana Tax Court (the Court). On April 14, 2003, the Court heard oral arguments and on August 4, 2005, the Court issued its order reversing the Board's determination on the application of obsolescence to improvements on the subject property.
6. In its Order, the Court determined that the Petitioner had "adequately accounted for its loss in property value with generally recognized appraisal techniques." Order at 11. Further, the Court found that the Assessor failed to rebut the Petitioner's prima facie case that obsolescence applied to the subject property. *Id.* at 12. On this basis, the Court reversed the Board's February 8, 2002, final determination and remanded the matter to the Board to award the Petitioner a 31% obsolescence depreciation on the Petitioner's improvements for the 1995 tax year. *Id.*

Conclusion

7. Accordingly, the Board finds that a 31% obsolescence factor should be applied to improvements on the subject property for the 1995 tax year.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review